

Office of the Secretary, USDA

§ 25.101

conditions, developed with the participation and commitment of local governments, tribal governments, state governments, private sector, community members and others, pursuant to the provisions of § 25.202.

USDA means the U.S. Department of Agriculture.

§ 25.4 Secretarial review and designation.

(a) *Designation.* The Secretary will review applications for the designation of nominated rural areas to determine the effectiveness of the strategic plans submitted by applicants; such designations of rural Empowerment Zones and Enterprise Communities as are made shall be from the applications submitted in response to the applicable Notice Inviting Applications. The Secretary may elect to designate as Champion communities, those nominated areas which are not designated as either a rural Empowerment Zone or Enterprise Community and whose applications meet the criteria contained in § 25.301.

(b) *Number of rural empowerment zones, enterprise communities and champion communities—(1) Round I.* The Secretary may designate up to three rural Empowerment Zones and up to thirty rural Enterprise Communities prior to December 31, 1996.

(2) *Round II.* The Secretary may, prior to January 1, 1999, designate up to five rural Empowerment Zones in addition to those designated in Round I. The number of Champion Communities is limited to the number of applicants which are not designated.

(c) *Period of designation.* The designation of a rural area as an Empowerment Zone or Enterprise Community shall remain in effect during the period beginning on the designation date and ending on the earliest of the:

- (1) End of the tenth calendar year beginning on or after the designation date;
- (2) Termination date designated by the state and local governments in their application for nomination;
- (3) Date the Secretary revokes the designation; or
- (4) Date the Empowerment Zone or Enterprise Community modifies its

boundary without first obtaining the written approval of the Secretary.

§ 25.5 Waivers.

The Secretary may waive any provision of this part in any particular case for good cause, where it is determined that application of the requirement would produce a result adverse to the purpose and objectives of this part.

§§ 25.6—25.99 [Reserved]

Subpart B—Area Requirements

§ 25.100 Eligibility requirements.

A nominated rural area may be eligible for designation pursuant to this part only if the area:

- (a) Has a maximum population of 30,000;
 - (b) Is one of pervasive poverty, unemployment, and general distress, as described in § 25.102;
 - (c) Meets the area size and boundary requirements of § 25.103;
 - (d) Is located entirely within the jurisdiction of the general local government making the nomination; and
 - (e) Meets the poverty rate criteria contained in § 25.104.
- (f) Provision for Alaska and Hawaii. A nominated area in Alaska or Hawaii shall be presumed to meet the criteria of paragraphs (b), (c), and (e) of this section if, for each Census tract or block group in the area, at least 20 percent of the families in such tract have an income which is 50 percent or less of the statewide median family income.

§ 25.101 Data utilized for eligibility determinations.

(a) *Source of data.* The data to be employed in determining eligibility pursuant to this part shall be based on the 1990 Census, and from information published by the Bureau of Census and the Bureau of Labor Statistics, provided, however, that for purposes of demonstrating outmigration pursuant to § 25.104(b)(2)(iii), data from the 1980 Census and interim data collected by the Bureau of Census for the 1990–1994 period may be used. The data shall be comparable in point or period of time and methodology employed.

(b) *Use of statistics on boundaries.* The boundary of a rural area nominated for

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designation as an Empowerment Zone or Enterprise Community must coincide with the boundaries of Census tracts, or, where tracts are not defined, with block numbering areas, except:

(1) Nominated areas in Alaska and Hawaii shall coincide with the boundaries of census tracts or block groups as such term is used for purposes of the 1990 Census;

(2) Developable sites are not required to coincide with the boundaries of Census tracts; and

(3) Nominated areas wholly within an Indian reservation are not required to adhere to census tract boundaries if sufficient credible data are available to show compliance with other requirements of this part. The requirements of § 25.103 are otherwise applicable.

[63 FR 19114, Apr. 16, 1998, as amended at 63 FR 53780, Oct. 7, 1998]

§ 25.102 Pervasive poverty, unemployment and general distress.

(a) *Pervasive poverty.* Conditions of poverty must be reasonably distributed throughout the entire nominated area. The degree of poverty shall be demonstrated by citing available statistics on low-income population, levels of public assistance, numbers of persons or families in poverty or similar data.

(b) *Unemployment.* The degree of unemployment shall be demonstrated by the provision of information on the number of persons unemployed, underemployed (those with only a seasonal or part-time job) or discouraged workers (those capable of working but who have dropped out of the labor market—hence are not counted as unemployed), increase in unemployment rate, job loss, plant or military base closing, or other relevant unemployment indicators having a direct effect on the nominated area.

(c) *General distress.* General distress shall be evidenced by describing adverse conditions within the nominated area other than those of pervasive poverty and unemployment. Below average or decline in per capita income, earnings per worker, per capita property tax base, average years of school completed; outmigration and population decline, a high or rising incidence of crime, narcotics use, abandoned housing, deteriorated infrastructure, school

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dropouts, teen pregnancy, incidents of domestic violence, incidence of certain health conditions and illiteracy are examples of appropriate indicators of general distress. The data and methods used to produce such indicators that are used to describe general distress must all be stated.

§ 25.103 Area size and boundary requirements

(a) General eligibility requirements. A nominated area:

(1) May not exceed one thousand square miles in total land area;

(2) Must have one continuous boundary if located in more than one State or may consist of not more than three noncontiguous parcels if located in only one State;

(3) If located in more than one State, must be located within no more than three contiguous States;

(4) May not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade) unless the poverty rate for each Census tract in such district is not less than 35 percent for an Empowerment Zone (30 percent in the case of an Enterprise Community);

(5) Subject to paragraph (b)(4) of this section, may not include any portion of an area already included in an Empowerment Zone or Enterprise Community or included in an area otherwise nominated to be designated under this section;

(b) Eligibility requirements specific to different rounds.

(1) For purposes of Round I designations only, a nominated area may not include any area within an Indian reservation;

(2) For purposes of applying paragraph (a)(1) of this section to Round II designations:

(i) A Census tract larger than 1,000 square miles shall be reduced to a 1,000 square mile area with a continuous boundary, if necessary, after application of §§ 25.103(b)(2) (ii) and (iii);

(ii) Land owned by the Federal, State or local government may (and in the event the Census tract exceeds 1,000 square miles, will) be excluded in determining the square mileage of a nominated area; and